

imposes on the States. These requirements include the development of procedures for follow-up on critical findings.

In the NPRM published on September 9, 2003, the FHWA proposed a burden increase of 67,000 hours for the information collection, OMB control number 2125-0501, and invited interested parties to send comments regarding any aspect of these information collection requirements. Such comments could include, but were not limited to: (1) Whether the collection of information will be necessary for the performance of the functions of the FHWA, including whether the information will have practical utility; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collection of information; and (4) ways to minimize the collection burden without reducing the quality of the information collected. The FHWA did not receive any comments in response to the proposed burden hour increase of 67,000 hours. The revision to the information collection, OMB control number 2125-0501, based on this final rule will increase the burden hours by only 2,080 hours, a much smaller amount than that originally proposed in the NPRM.

#### *National Environmental Policy Act*

The agency has analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321) and has determined that this action will not have any effect on the quality of the environment.

#### *Executive Order 13211 (Energy Effects)*

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a significant energy action under that order, because although it is a significant regulatory action under Executive Order 12866 it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

#### *Regulation Identification Number*

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

#### **List of Subjects in 23 CFR Part 650**

Bridges, Grant Programs—transportation, Highways and roads, Incorporation by reference, Reporting and record keeping requirements.

Issued on: December 9, 2004.

**Mary E. Peters,**

*Federal Highway Administrator.*

■ In consideration of the foregoing, the FHWA is amending title 23, Code of Federal Regulations, part 650, subpart C, as follows:

#### **PART 650—BRIDGES, STRUCTURES, AND HYDRAULICS**

■ 1. The authority citation for part 650 continues to read as follows:

**Authority:** 23 U.S.C. 109 (a) and (h), 144, 151, 315, and 319; 33 U.S.C. 401, 491 *et seq.*, 511 *et seq.*; 23 CFR 1.32; 49 CFR 1.48(b), E.O. 11988 (3 CFR, 1977 Comp. p. 117); Department of Transportation Order 5650.2 dated April 23, 1979 (44 FR 24678); sec. 161 of Public Law 97-424, 96 Stat. 2097, 3135; sec. 4(b) of Public Law 97-134, 95 Stat. 1699; and sec. 1057 of Public Law 102-240, 105 Stat. 2002; and sec. 1311 of Pub. L. 105-178, as added by Pub. L. 105-206, 112 Stat. 842 (1998).

■ 2. Revise subpart C to read as follows:

#### **Subpart C—National Bridge Inspection Standards**

Sec.

- 650.301 Purpose.
- 650.303 Applicability.
- 650.305 Definitions.
- 650.307 Bridge inspection organization.
- 650.309 Qualifications of personnel.
- 650.311 Inspection frequency.
- 650.313 Inspection procedures.
- 650.315 Inventory.
- 650.317 Reference manuals.

#### **Subpart C—National Bridge Inspection Standards**

##### **§ 650.301 Purpose.**

This subpart sets the national standards for the proper safety inspection and evaluation of all highway bridges in accordance with 23 U.S.C. 151.

##### **§ 650.303 Applicability.**

The National Bridge Inspection Standards (NBIS) in this subpart apply to all structures defined as highway bridges located on all public roads.

##### **§ 650.305 Definitions.**

Terms used in this subpart are defined as follows:

*American Association of State Highway and Transportation Officials (AASHTO) Manual.* “Manual for Condition Evaluation of Bridges,” second edition, published by the American Association of State Highway and Transportation Officials

(incorporated by reference, *see* § 650.317).

*Bridge.* A structure including supports erected over a depression or an obstruction, such as water, highway, or railway, and having a track or passageway for carrying traffic or other moving loads, and having an opening measured along the center of the roadway of more than 20 feet between undercopings of abutments or spring lines of arches, or extreme ends of openings for multiple boxes; it may also include multiple pipes, where the clear distance between openings is less than half of the smaller contiguous opening.

*Bridge inspection experience.* Active participation in bridge inspections in accordance with the NBIS, in either a field inspection, supervisory, or management role. A combination of bridge design, bridge maintenance, bridge construction and bridge inspection experience, with the predominant amount in bridge inspection, is acceptable.

*Bridge inspection refresher training.* The National Highway Institute “Bridge Inspection Refresher Training Course”<sup>1</sup> or other State, local, or federally developed instruction aimed to improve quality of inspections, introduce new techniques, and maintain the consistency of the inspection program.

*Bridge Inspector's Reference Manual (BIRM).* A comprehensive FHWA manual on programs, procedures and techniques for inspecting and evaluating a variety of in-service highway bridges. This manual may be purchased from the U.S. Government Printing Office, Washington, DC 20402 and from National Technical Information Service, Springfield, Virginia 22161, and is available at the following URL: <http://www.fhwa.dot.gov/bridge/bripub.htm>.

*Complex bridge.* Movable, suspension, cable stayed, and other bridges with unusual characteristics.

*Comprehensive bridge inspection training.* Training that covers all aspects of bridge inspection and enables inspectors to relate conditions observed on a bridge to established criteria (see the Bridge Inspector's Reference Manual for the recommended material to be covered in a comprehensive training course).

*Critical finding.* A structural or safety related deficiency that requires immediate follow-up inspection or action.

*Damage inspection.* This is an unscheduled inspection to assess structural damage resulting from environmental factors or human actions.

<sup>1</sup> The National Highway Institute training may be found at the following URL: <http://www.nhi.fhwa.dot.gov/>

*Fracture critical member (FCM).* A steel member in tension, or with a tension element, whose failure would probably cause a portion of or the entire bridge to collapse.

*Fracture critical member inspection.* A hands-on inspection of a fracture critical member or member components that may include visual and other nondestructive evaluation.

*Hands-on.* Inspection within arms length of the component. Inspection uses visual techniques that may be supplemented by nondestructive testing.

*Highway.* The term "highway" is defined in 23 U.S.C. 101(a)(11).

*In-depth inspection.* A close-up, inspection of one or more members above or below the water level to identify any deficiencies not readily detectable using routine inspection procedures; hands-on inspection may be necessary at some locations.

*Initial inspection.* The first inspection of a bridge as it becomes a part of the bridge file to provide all Structure Inventory and Appraisal (SI&A) data and other relevant data and to determine baseline structural conditions.

*Legal load.* The maximum legal load for each vehicle configuration permitted by law for the State in which the bridge is located.

*Load rating.* The determination of the live load carrying capacity of a bridge using bridge plans and supplemented by information gathered from a field inspection.

*National Institute for Certification in Engineering Technologies (NICET).* The NICET provides nationally applicable voluntary certification programs covering several broad engineering technology fields and a number of specialized subfields. For information on the NICET program certification contact: National Institute for Certification in Engineering Technologies, 1420 King Street, Alexandria, VA 22314-2794.

*Operating rating.* The maximum permissible live load to which the structure may be subjected for the load configuration used in the rating.

*Professional engineer (PE).* An individual, who has fulfilled education and experience requirements and passed rigorous exams that, under State licensure laws, permits them to offer engineering services directly to the public. Engineering licensure laws vary from State to State, but, in general, to become a PE an individual must be a graduate of an engineering program accredited by the Accreditation Board for Engineering and Technology, pass the Fundamentals of Engineering exam,

gain four years of experience working under a PE, and pass the Principles of Practice of Engineering exam.

*Program Manager.* The individual in charge of the program, that has been assigned or delegated the duties and responsibilities for bridge inspection, reporting, and inventory. The program manager provides overall leadership and is available to inspection team leaders to provide guidance.

*Public road.* The term "public road" is defined in 23 U.S.C. 101(a)(27).

*Quality assurance (QA).* The use of sampling and other measures to assure the adequacy of quality control procedures in order to verify or measure the quality level of the entire bridge inspection and load rating program.

*Quality control (QC).* Procedures that are intended to maintain the quality of a bridge inspection and load rating at or above a specified level.

*Routine inspection.* Regularly scheduled inspection consisting of observations and/or measurements needed to determine the physical and functional condition of the bridge, to identify any changes from initial or previously recorded conditions, and to ensure that the structure continues to satisfy present service requirements.

*Routine permit load.* A live load, which has a gross weight, axle weight or distance between axles not conforming with State statutes for legally configured vehicles, authorized for unlimited trips over an extended period of time to move alongside other heavy vehicles on a regular basis.

*Scour.* Erosion of streambed or bank material due to flowing water; often considered as being localized around piers and abutments of bridges.

*Scour critical bridge.* A bridge with a foundation element that has been determined to be unstable for the observed or evaluated scour condition.

*Special inspection.* An inspection scheduled at the discretion of the bridge owner, used to monitor a particular known or suspected deficiency.

*State transportation department.* The term "State transportation department" is defined in 23 U.S.C. 101(a)(34).

*Team leader.* Individual in charge of an inspection team responsible for planning, preparing, and performing field inspection of the bridge.

*Underwater diver bridge inspection training.* Training that covers all aspects of underwater bridge inspection and enables inspectors to relate the conditions of underwater bridge elements to established criteria (see the Bridge Inspector's Reference Manual section on underwater inspection for the recommended material to be covered in

an underwater diver bridge inspection training course).

*Underwater inspection.* Inspection of the underwater portion of a bridge substructure and the surrounding channel, which cannot be inspected visually at low water by wading or probing, generally requiring diving or other appropriate techniques.

#### **§ 650.307 Bridge inspection organization.**

(a) Each State transportation department must inspect, or cause to be inspected, all highway bridges located on public roads that are fully or partially located within the State's boundaries, except for bridges that are owned by Federal agencies.

(b) Federal agencies must inspect, or cause to be inspected, all highway bridges located on public roads that are fully or partially located within the respective agency responsibility or jurisdiction.

(c) Each State transportation department or Federal agency must include a bridge inspection organization that is responsible for the following:

(1) Statewide or Federal agencywide bridge inspection policies and procedures, quality assurance and quality control, and preparation and maintenance of a bridge inventory.

(2) Bridge inspections, reports, load ratings and other requirements of these standards.

(d) Functions identified in paragraphs (c)(1) and (2) of this section may be delegated, but such delegation does not relieve the State transportation department or Federal agency of any of its responsibilities under this subpart.

(e) The State transportation department or Federal agency bridge inspection organization must have a program manager with the qualifications defined in § 650.309(a), who has been delegated responsibility for paragraphs (c)(1) and (2) of this section.

#### **§ 650.309 Qualifications of personnel.**

(a) A program manager must, at a minimum:

(1) Be a registered professional engineer, or have ten years bridge inspection experience; and

(2) Successfully complete a Federal Highway Administration (FHWA) approved comprehensive bridge inspection training course.

(b) There are five ways to qualify as a team leader. A team leader must, at a minimum:

(1) Have the qualifications specified in paragraph (a) of this section; or

(2) Have five years bridge inspection experience and have successfully completed an FHWA approved comprehensive bridge inspection training course; or



(3) Be certified as a Level III or IV Bridge Safety Inspector under the National Society of Professional Engineer's program for National Certification in Engineering Technologies (NICET) and have successfully completed an FHWA approved comprehensive bridge inspection training course, or

(4) Have all of the following:

(i) A bachelor's degree in engineering from a college or university accredited by or determined as substantially equivalent by the Accreditation Board for Engineering and Technology;

(ii) Successfully passed the National Council of Examiners for Engineering and Surveying Fundamentals of Engineering examination;

(iii) Two years of bridge inspection experience; and

(iv) Successfully completed an FHWA approved comprehensive bridge inspection training course, or

(5) Have all of the following:

(i) An associate's degree in engineering or engineering technology from a college or university accredited by or determined as substantially equivalent by the Accreditation Board for Engineering and Technology;

(ii) Four years of bridge inspection experience; and

(iii) Successfully completed an FHWA approved comprehensive bridge inspection training course.

(c) The individual charged with the overall responsibility for load rating bridges must be a registered professional engineer.

(d) An underwater bridge inspection diver must complete an FHWA approved comprehensive bridge inspection training course or other FHWA approved underwater diver bridge inspection training course.

#### **§ 650.311 Inspection frequency.**

(a) *Routine inspections.* (1) Inspect each bridge at regular intervals not to exceed twenty-four months.

(2) Certain bridges require inspection at less than twenty-four-month intervals. Establish criteria to determine the level and frequency to which these bridges are inspected considering such factors as age, traffic characteristics, and known deficiencies.

(3) Certain bridges may be inspected at greater than twenty-four month intervals, not to exceed forty-eight-months, with written FHWA approval. This may be appropriate when past inspection findings and analysis justifies the increased inspection interval.

(b) *Underwater inspections.* (1) Inspect underwater structural elements at regular intervals not to exceed sixty months.

(2) Certain underwater structural elements require inspection at less than sixty-month intervals. Establish criteria to determine the level and frequency to which these members are inspected considering such factors as construction material, environment, age, scour characteristics, condition rating from past inspections and known deficiencies.

(3) Certain underwater structural elements may be inspected at greater than sixty-month intervals, not to exceed seventy-two months, with written FHWA approval. This may be appropriate when past inspection findings and analysis justifies the increased inspection interval.

(c) *Fracture critical member (FCM) inspections.* (1) Inspect FCMs at intervals not to exceed twenty-four months.

(2) Certain FCMs require inspection at less than twenty-four-month intervals. Establish criteria to determine the level and frequency to which these members are inspected considering such factors as age, traffic characteristics, and known deficiencies.

(d) Damage, in-depth, and special inspections. Establish criteria to determine the level and frequency of these inspections.

#### **§ 650.313 Inspection procedures.**

(a) Inspect each bridge in accordance with the inspection procedures in the AASHTO Manual (incorporated by reference, *see* § 650.317).

(b) Provide at least one team leader, who meets the minimum qualifications stated in § 650.309, at the bridge at all times during each initial, routine, in-depth, fracture critical member and underwater inspection.

(c) Rate each bridge as to its safe load-carrying capacity in accordance with the AASHTO Manual (incorporated by reference, *see* § 650.317). Post or restrict the bridge in accordance with the AASHTO Manual or in accordance with State law, when the maximum unrestricted legal loads or State routine permit loads exceed that allowed under the operating rating or equivalent rating factor.

(d) Prepare bridge files as described in the AASHTO Manual (incorporated by reference, *see* § 650.317). Maintain reports on the results of bridge inspections together with notations of any action taken to address the findings of such inspections. Maintain relevant maintenance and inspection data to allow assessment of current bridge condition. Record the findings and results of bridge inspections on standard State or Federal agency forms.

(e) Identify bridges with FCMs, bridges requiring underwater inspection, and bridges that are scour critical.

(1) Bridges with fracture critical members. In the inspection records, identify the location of FCMs and describe the FCM inspection frequency and procedures. Inspect FCMs according to these procedures.

(2) Bridges requiring underwater inspections. Identify the location of underwater elements and include a description of the underwater elements, the inspection frequency and the procedures in the inspection records for each bridge requiring underwater inspection. Inspect those elements requiring underwater inspections according to these procedures.

(3) Bridges that are scour critical. Prepare a plan of action to monitor known and potential deficiencies and to address critical findings. Monitor bridges that are scour critical in accordance with the plan.

(f) *Complex bridges.* Identify specialized inspection procedures, and additional inspector training and experience required to inspect complex bridges. Inspect complex bridges according to those procedures.

(g) *Quality control and quality assurance.* Assure systematic quality control (QC) and quality assurance (QA) procedures are used to maintain a high degree of accuracy and consistency in the inspection program. Include periodic field review of inspection teams, periodic bridge inspection refresher training for program managers and team leaders, and independent review of inspection reports and computations.

(h) *Follow-up on critical findings.* Establish a statewide or Federal agency wide procedure to assure that critical findings are addressed in a timely manner. Periodically notify the FHWA of the actions taken to resolve or monitor critical findings.

#### **§ 650.315 Inventory.**

(a) Each State or Federal agency must prepare and maintain an inventory of all bridges subject to the NBIS. Certain Structure Inventory and Appraisal (SI&A) data must be collected and retained by the State or Federal agency for collection by the FHWA as requested. A tabulation of this data is contained in the SI&A sheet distributed by the FHWA as part of the "Recording and Coding Guide for the Structure Inventory and Appraisal of the Nation's Bridges," (December 1995) together with subsequent interim changes or the most recent version. Report the data using FHWA established procedures as

outlined in the "Recording and Coding Guide for the Structure Inventory and Appraisal of the Nation's Bridges."

(b) For routine, in-depth, fracture critical member, underwater, damage and special inspections enter the SI&A data into the State or Federal agency inventory within 90 days of the date of inspection for State or Federal agency bridges and within 180 days of the date of inspection for all other bridges.

(c) For existing bridge modifications that alter previously recorded data and for new bridges, enter the SI&A data into the State or Federal agency inventory within 90 days after the completion of the work for State or Federal agency bridges and within 180 days after the completion of the work for all other bridges.

(d) For changes in load restriction or closure status, enter the SI&A data into the State or Federal agency inventory within 90 days after the change in status of the structure for State or Federal agency bridges and within 180 days after the change in status of the structure for all other bridges.

#### **§ 650.317 Reference manuals.**

(a) The materials listed in this subpart are incorporated by reference in the corresponding sections noted. These incorporations by reference were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. These materials are incorporated as they exist on the date of the approval, and notice of any change in these documents will be published in the **Federal Register**. The materials are available for purchase at the address listed below, and are available for inspection at the National Archives and Records Administration (NARA). These materials may also be reviewed at the Department of Transportation Library, 400 Seventh Street, SW., Washington, DC, in Room 2200. For information on the availability of these materials at NARA call (202) 741-6030, or go to the following URL: [http://www.archives.gov/federal\\_register/](http://www.archives.gov/federal_register/)

[code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html). In the event there is a conflict between the standards in this subpart and any of these materials, the standards in this subpart will apply.

(b) The following materials are available for purchase from the American Association of State Highway and Transportation Officials, Suite 249, 444 N. Capitol Street, NW., Washington, DC 20001. The materials may also be ordered via the AASHTO bookstore located at the following URL: <http://www.aashto.org/aashto/home.nsf/FrontPage>.

(1) The Manual for Condition Evaluation of Bridges, 1994, second edition, as amended by the 1995, 1996, 1998, and 2000 interim revisions, AASHTO, incorporation by reference approved for §§ 650.305 and 650.313.

(2) 2001 Interim Revision to the Manual for Condition Evaluation of Bridges, AASHTO, incorporation by reference approved for §§ 650.305 and 650.313.

(3) 2003 Interim Revision to the Manual for Condition Evaluation of Bridges, AASHTO, incorporation by reference approved for §§ 650.305 and 650.313.

[FR Doc. 04-27355 Filed 12-13-04; 8:45 am]

BILLING CODE 4910-22-P

## **DEPARTMENT OF THE TREASURY**

### **31 CFR Part 103**

#### **Financial Crimes Enforcement Network; Interpretive Release 2004-1—Anti-Money Laundering Program Requirements for Money Services Businesses With Respect to Foreign Agents or Foreign Counterparties**

**AGENCY:** Financial Crimes Enforcement Network (FinCEN), Treasury.

**ACTION:** Final rule; interpretive release.

**SUMMARY:** This Interpretive Release sets forth an interpretation of the regulation requiring Money Services Businesses that are required to register with FinCEN to establish and maintain anti-money laundering programs. Specifically, this Interpretive Release clarifies that the anti-money laundering program regulation requires such Money Services Businesses to establish adequate and appropriate policies, procedures and controls commensurate with the risk of money laundering and the financing of terrorism posed by their relationship with foreign agents or foreign counterparties of the Money Services Business.

**DATES:** Effective June 13, 2005.

#### **FOR FURTHER INFORMATION CONTACT:**

Office of Regulatory Policy and Programs Division, 1-800-800-2877, Office of Chief Counsel (703) 905-3590 (not a toll free number).

**SUPPLEMENTARY INFORMATION:** Section 5318(h) of the Bank Secrecy Act, which is codified in subchapter II of chapter 53 of title 31, United States Code, requires every financial institution to establish an anti-money laundering program. The Bank Secrecy Act regulations define financial institution to include money service businesses. On April 29, 2002, FinCEN issued interim final rules-31

CFR 103.125-concerning the application of the anti-money laundering program requirement to money services businesses. 67 FR 21114.

#### **List of Subjects in 31 CFR Part 103**

Authority delegations (government agencies), bank, banking, currency, investigations, reporting and recordkeeping requirements.

#### **Department of the Treasury**

##### **31 CFR Chapter I**

#### **Authority and Issuance**

■ For the reasons set forth in the preamble, part 103 of title 31 of the Code of Federal Regulations is amended as follows:

#### **PART 103—FINANCIAL RECORDKEEPING AND REPORTING OF CURRENCY AND FOREIGN TRANSACTIONS**

■ 1. The authority citation for part 103 continues to read as follows:

**Authority:** 12 U.S.C. 1829b and 1951-1959; 31 U.S.C. 5311-5314 and 5316-5332; title III, secs. 312, 313, 314, 319, 326, 352, Pub. L. 107-56, 115 Stat. 307, 12 U.S.C. 1786(q).

■ 2. Part 103 is amended by adding a new appendix C to read as follows:

#### **APPENDIX C TO PART 103—INTERPRETIVE RULES**

##### **Release No. 2004-01**

This Interpretive Guidance sets forth our interpretation of the regulation requiring Money Services Businesses that are required to register with FinCEN to establish and maintain anti-money laundering programs. See 31 CFR 103.125. Specifically, this Interpretive Guidance clarifies that the anti-money laundering program regulation requires Money Services Businesses to establish adequate and appropriate policies, procedures, and controls commensurate with the risks of money laundering and the financing of terrorism posed by their relationship with foreign agents or foreign counterparties of the Money Services Business.<sup>1</sup>

Under existing Bank Secrecy Act regulations, we have defined Money Services Businesses to include five distinct types of financial services providers and the U.S. Postal Service: (1) Currency dealers or exchangers; (2) check cashers; (3) issuers of traveler's checks, money orders, or stored

<sup>1</sup> This Interpretive Guidance focuses on the need to control risks arising out of the relationship between a Money Service Business and its foreign counterparty or agent. Under existing FinCEN regulations, only Money Service Business principals are required to register with FinCEN, and only Money Service Business principals establish the counterparty or agency relationships. 31 CFR 103.41. Accordingly, this Interpretive Guidance only applies to those Money Service Businesses required to register with FinCEN, that is, only those Money Service Businesses that may have a relationship with a foreign agent or counterparty.